

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CLIFTON DAY, *ET AL.*,

Plaintiffs,

Case No. 05-72677

v.

HONORABLE ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

SAL AHMED, *ET AL.*,

Defendants.

MAGISTRATE JUDGE
VIRGINIA M. MORGAN

**ORDER GRANTING DEFENDANTS' MOTION TO ALTER OR AMEND JUDGMENT
[D/E # 39] AND DENYING PLAINTIFFS' MOTIONS AS MOOT [D/E # 41, 42, 42, 49,
53, & 54]**

On March 27, 2006, this Court entered an order adopting the Magistrate's Reports and Recommendations which caused the entire case to be dismissed without prejudice for failure to exhaust numerous claims under *Jones Bey v. Johnson*. 407 F.3d 801 (6th Cir. 2005). The Court noted that many of Plaintiffs claims had been exhausted but the supporting documentation was incomplete.

This Court requested and ordered Parnell Correctional Facility, a non-defendant in the suit, to provide Plaintiffs with the missing grievance step forms so that the Plaintiffs could file a fully-exhausted amended complaint within twenty-one days after receipt of the paperwork. The order stated in part:

IT IS FURTHER ORDERED that the Parnell Correctional Facility shall within 30 days provide Plaintiffs with any grievance step forms that Plaintiffs may be missing. If Parnell Correctional Facility does not provide Plaintiffs with the paperwork within this time frame, Plaintiffs will be allowed to file their amended complaint and their claims shall be considered exhausted.

IT IS FURTHER ORDERED that upon receipt of grievance step forms, Plaintiffs will have 21 days in which they may file an amended complaint that

contains only exhausted claims.

After the entry of the order, Defendants filed a Motion to Alter or Amend Judgment that the order should be amended to delete these two paragraphs since they are contrary to law.

The Defendants' motion is correct when it states that the order caused this case to end. The Plaintiffs may not file an amended complaint and may only re-raise these and possibly other claims by filing of a new complaint.

It should be noted that not providing Plaintiffs with the necessary litigation materials may be the basis for a new cause of action.

For the reasons stated above,

IT IS ORDERED that the Defendants' Motion to Alter or Amend Judgment is **GRANTED** causing the last two paragraphs of the Court's March 27, 2006 Order to be deleted. As a result, Plaintiffs may not file an amended complaint, but may file a new complaint. Also, Parnell Correctional Facility is not at this time ordered to provide Plaintiffs with the missing grievance step forms.

IT IS FURTHER ORDERED that Plaintiffs' Motions For a Temporary Restraining Order and Preliminary Injunctions, Motion for Leave to File Excess Pages, Motion to Appoint Counsel, Motion to Compel and Motion for Order are **DENIED AS MOOT**.